

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT ALAN HEIBEL,

Plaintiff,

v.

CASE NO. 2:08-CV-13511
HONORABLE GEORGE CARAM STEEH

RICHARD RUSSELL, et al.,

Defendants.

ORDER DISMISSING CASE

Michigan prisoner Robert Alan Heibel has filed a civil rights action pursuant to 42 U.S.C. § 1983 against several defendants claiming that he has not been properly granted a special accommodations detail and provided with proper medical treatment for his chronic back pain.

The plaintiff, however, has already filed a civil rights action against the same defendants involving the same allegations of unconstitutional conduct, which is pending before the Honorable Marianne O. Battani. *See* Case No. 2:08-CV-13078. Accordingly, the instant action must be dismissed as duplicative. A suit is duplicative, and subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See, e.g., Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999). The instant action is duplicative of the plaintiff's pending civil rights action. It appears that the plaintiff was attempting to file the instant pleadings as part of his original action to comply with a deficiency order, but the

documents were mistakenly filed as a new case by the Clerk's Office.¹ In any event, because the plaintiff sues the same defendants and raises the same claims in both cases, the Court will dismiss this second case as duplicative. *See Harrington v. Stegall*, 2002 WL 373113, *2 (E.D. Mich. Feb. 28, 2002); *see also Davis v. United States Parole Comm'n*, 870 F.2d 657, 1989 WL 25837, *1 (6th Cir. March 7, 1989) (district court may dismiss habeas petition as duplicative of pending petition when the second petition is essentially the same as the first petition).

Accordingly, the Court **DISMISSES** the instant case as duplicative. This dismissal is without prejudice to the complaint filed in Case No. 2:08-CV-13078. No fees shall be assessed for this filing.

IT IS SO ORDERED.

Dated: August 25, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 25, 2008, by electronic and/or ordinary mail.

S/Marcia Beauchemin
Deputy Clerk

¹The documents filed in this case will be sent to the Clerk's Office to correct the deficiency in Case No. 08-13078 so that service may be effectuated in that case.